January 29, 1999

# SENATE BILL No. 189

DIGEST OF SB189 (Updated January 28, 1999 12:07 pm - DI 44)

**Citations Affected:** IC 6-5.5; noncode.

**Synopsis:** Financial institutions tax. Treats resident financial institutions the same as nonresident financial institutions for purposes of the financial institutions tax by providing that the tax is imposed upon the apportioned Indiana income of financial institutions. (Current law imposes the financial institutions tax on the adjusted gross income of resident financial institutions.)

**Effective:** January 1, 1999 (retroactive).

**Kenley, Simpson,** Clark, Blade, Howard

January 6, 1999, read first time and referred to Committee on Finance.
January 28, 1999, amended, reported favorably — Do Pass.

January 29, 1999

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.



# SENATE BILL No. 189

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 6-5.5-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999 (RETROACTIVE)]: Sec. 1. (a) There is imposed on each taxpayer a franchise tax measured by the taxpayer's ~~adjusted gross income or~~ apportioned income for the privilege of exercising its franchise or the corporate privilege of transacting the business of a financial institution in Indiana. The amount of the tax for a taxable year shall be determined by multiplying eight and one-half percent (8.5%) times the remainder of:

(1) the taxpayer's ~~adjusted gross income or~~ apportioned income; minus

(2) the taxpayer's deductible Indiana net operating losses as determined under this section; minus

(3) the taxpayer's net capital losses minus the taxpayer's net capital gains computed under the Internal Revenue Code for each taxable year or part of a taxable year beginning after December 31, 1989, multiplied by the apportionment percentage applicable to the taxpayer under IC 6-5.5-2 for the taxable year of the loss.

A net capital loss for a taxable year is a net capital loss carryover to each of the five (5) taxable years that follow the taxable year in which the loss occurred.

(b) The amount of net operating losses deductible under subsection (a) is an amount equal to the net operating losses computed under the Internal Revenue Code, adjusted for the items set forth in IC 6-5.5-1-2, that are:

(1) incurred in each taxable year, or part of a year, beginning after December 31, 1989; and

(2) attributable to Indiana.

(c) The following apply to determining the amount of net operating losses that may be deducted under subsection (a):

(1) The amount of net operating losses that is attributable to Indiana is the taxpayer's total net operating losses under the Internal Revenue Code for the taxable year of the loss, adjusted for the items set forth in IC 6-5.5-1-2, multiplied by the apportionment percentage applicable to the taxpayer under IC 6-5.5-2 for the taxable year of the loss.

(2) A net operating loss for any taxable year is a net operating loss carryover to each of the fifteen (15) taxable years that follow the taxable year in which the loss occurred.

(d) The following provisions apply to a combined return computing the tax on the basis of the income of the unitary group when the return is filed for more than one (1) taxpayer member of the unitary group for any taxable year:

(1) Any net capital loss or net operating loss attributable to Indiana in the combined return shall be prorated between each taxpayer member of the unitary group by the quotient of:

(A) the receipts of that taxpayer member attributable to Indiana under section 4 of this chapter; divided by

(B) the receipts of all taxpayer members of the unitary group attributable to Indiana.

(2) The net capital loss or net operating loss for that year, if any, to be carried forward to any subsequent year shall be limited to the capital gains or apportioned income for the subsequent year of that taxpayer, determined by the same receipts formula set out in subdivision (1).

SECTION 2. IC 6-5.5-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999 (RETROACTIVE)]: Sec. 3. For a ~~nonresident~~ taxpayer that is not filing a combined return, the taxpayer's apportioned income consists of the taxpayer's adjusted gross income for that year multiplied by the quotient of:

(1) the taxpayer's total receipts attributable to transacting business in Indiana, as determined under IC 6-5.5-4; divided by

(2) the taxpayer's total receipts from transacting business in all taxing jurisdictions, as determined under IC 6-5.5-4.

SECTION 3. IC 6-5.5-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999 (RETROACTIVE)]: Sec. 4. For a taxpayer filing a combined return for its unitary group, the group's apportioned income for a taxable year consists of:

(1) the aggregate adjusted gross income, from whatever source derived, of the ~~resident taxpayer members of the unitary group and the nonresident~~ members of the unitary group; multiplied by

(2) the quotient of:

(A) all the receipts of the ~~resident taxpayer members of the unitary group from whatever source derived plus the receipts of the nonresident~~ taxpayer members of the unitary group that are attributable to transacting business in Indiana; divided by

(B) the receipts of all the members of the unitary group from transacting business in all taxing jurisdictions.

SECTION 4. IC 6-5.5-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999 (RETROACTIVE)]: Sec. 1. This chapter applies to ~~the following:~~

~~(1) Nonresident~~ **all** taxpayers.

~~(2) Nonresident members of a unitary group that file a combined return.~~

SECTION 5. THE FOLLOWING ARE REPEALED [EFFECTIVE JANUARY 1, 1999 (RETROACTIVE)]: IC 6-5.5-2-2; IC 6-5.5-2-5; IC 6-5.5-2-5.3.

SECTION 6. [EFFECTIVE JANUARY 1, 1999 (RETROACTIVE)] **IC 6-5.5-2-1, IC 6-5.5-2-3, 6-5.5-2-4, and IC 6-5.5-4-1, all as amended by this act, apply to taxable years that begin after December 31, 1998.**

SECTION 7. **An emergency is declared for this act.**

SENATE MOTION

Mr. President: I move that Senator Clark be added as coauthor of Senate Bill 189.

KENLEY

SENATE MOTION

Mr. President: I move that Senator Simpson be added as second author and Senators Blade and Howard be added as coauthors of Senate Bill 189.

KENLEY

COMMITTEE REPORT

Mr. President: The Senate Committee on Finance, to which was referred Senate Bill No. 189, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 3, line 31, delete "1999" and insert "**1998**".

and when so amended that said bill do pass.

(Reference is to SB 189 as introduced.)

BORST, Chairperson

Committee Vote: Yeas 14, Nays 0.